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SUBJECT Third Sustitute Appeal Brief (10/099,777)

Number of Pages 16

Date 7/13/2006

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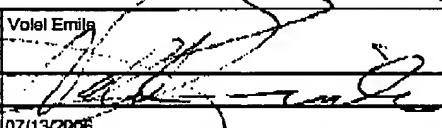
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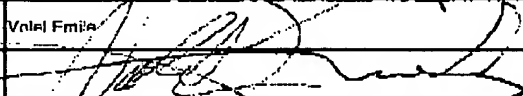
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PTO/SB/21 (02-04)
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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/099,777
	Filing Date	07/14/2006
	First Named Inventor	Brown et al.
	Art Unit	2171
	Examiner Name	Don Linh T. Nguyen
Total Number of Pages in This Submission	Attorney Docket Number	AU5920010866US1

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of:	:
Brown et al.	:
	: Before the Examiner:
Serial No: 10/099,777	: Cam Linh T Nguyen
	:
Filed: 03/14/2002	: Group Art Unit: 2171
	:
Title: APPARATUS AND METHOD	: Confirmation No.: 4836
OF EXPORTING FILE SYSTEMS	:
WITHOUT FIRST MOUNTING THE	:
FILE SYSTEMS	:

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF
UNDER 37 C.F.R. 41.37

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

This third substitute Appeal Brief is being submitted in response to the NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF of June 28, 2006. In that NOTIFICATION, the Examiner checked items 4, 5, 7, 8 and 9 as being the reason why the APPEAL BRIEF filed on May 10, 2006 was non-compliant.

Applicants' attorney reviewed the Appeal Brief of May 10, 2006 and found all relevant information requested in the items checked to be therein. Consequently, on July 12, 2006 Applicants' attorney called Examiner Nguyen for clarification. Examiner Nguyen suggested that her supervisor, Examiner Gaffin, be called.

Upon calling Examiner Gaffin on July 12, 2006, he reviewed the Appeal Brief of May 10, 2006 and could not find what was deficient regarding the information in the Appeal Brief related to items 5, 7, 8 and 9. However, Examiner Gaffin suggested that the elements of the broadest claims being appealed should

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be mapped, one on one, with their support in the Specification and Figures of the Application.

Applicants' attorney believes that was done in the Appeal Brief of May 10, 2006. Nonetheless, in this third substitute Appeal Brief, Applicants' attorney not only does map the elements of the broadest claims being appealed, one on one, with their support in the Specification and Figures in the SUMMARY OF THE CLAIMED SUBJECT MATTER but also reproduces Claim 1, as an example, and provides support for each element of Claim 1 right after the element (see Section V SUMMARY OF THE CLAIMED SUBJECT MATTER).

Applicants' attorney believes that this present substitute Appeal Brief is compliant.

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BRIEF FOR APPLICANTS - APPELLANTS

(i)

Real Party in Interest

The real party in interest is International Business Machines Corporation (IBM), the assignee.

(ii)

Related Appeals and Interferences

There are no other appeals or interferences known to appellants, appellants' representative or assignee, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(iii)

Status of Claims

Claims 1 - 20 have been finally rejected. This appeal involves all the rejected claims.

(iv)

Status of Amendment

No amendment was filed after the Final Office Action of March 8, 2005.

(v)

Summary of Claimed Subject Matter

The present invention provides a method of exporting file systems. For example According to the invention, a file in which all information needed to mount file systems at a particular mount point is associated with the mount point (see page 14, lines 22 – 24 and page 15, lines 18 – 20 as well as Item 730 of Fig. 7). Thus, when a file is to be exported, the file is consulted to retrieve the information needed to mount the file system. Once the information is retrieved, AUS920010866US1

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the file is exported (see page 15, lines 21 – 25 and page 16, lines 9 – 12 as well as originally filed Fig. 8).

This Summary of the claimed subject matter can be found in independent Claims 1, 6, 11 and 16. However, since independent Claims 6, 11 and 16 are computer program product, apparatus and system equivalent claims of Claim 1, respectively, a method claim, only Claim 1 is reproduced below as an example.

1. (Previously presented) A method of exporting file systems comprising the steps of:

consulting a file associated with a mount point of a mounted file system to retrieve needed information to export the file systems (see page 14, lines 22 – 24 and page 15, lines 18 – 20 and item 730 of Fig. 7) , the mount point being the point at which the file systems are mounted on a computer system (see page 13, lines 9 – 12, lines 22 and 23, page 14, lines 4 – 16 as well as item 620 of Fig. 6) ; and

exporting the file systems (page 14, line 25 and 26, page 16, lines 17 – 19, lines 24 – 26, items 814 and 818 of Fig. 8).

(vi)

Grounds of Rejection to be Reviewed on Appeal

Whether claims 1 - 20 were properly rejected under 102(a) as being anticipated by Vahalla et al.

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(vii)

Arguments

In considering a Section 102 rejection, all the elements of the claimed invention must be disclosed in a single item of prior art in the form literally defined in the claim. *Jamesbury Corp. v. Litton Indus. Products*, 756 F.2d 1556, 225 USPQ 253 (Fed. Cir. 1985); *Atlas Powder Co. v. Dupont*, 750 F.2d 1569, 224 USPQ 409 (Fed. Cir. 1984); *American Hospital Supply v. Travenol Labs.*, 745 F.2d 1, 223 USPQ 577 (Fed. Cir. 1984). Russell-Falla et al., the reference used to reject the independent claims, does not disclose all the elements of the claims.

Vahalia et al. purport to teach a method of: (1) providing NFS clients with read/write access to read from and write into file systems; and (2) performing failure recovery of a failed server.

In the method of providing NFS clients with read/write access to read from and write into file systems, each file system is assigned to a particular server in a network of servers. Any server in the network may receive a file access request from any NFS client. If the file system that is to be accessed is assigned to the server that receives the request, that server will provide the access. But, if the file system that is to be accessed is not assigned to the server that receives the request, the server will forward the request to the server to which the file system is assigned.

This scheme obviates the need to provide coherency since only the server to which the file is assigned will allow changes to any file in the file system and will presumably permit only one client to make changes to the files in the file system at a time. Further, the scheme provides a certain level of load balancing as only a server to which a file system is assigned will process the request and presumably access requests will be sent to different file systems assigned to different servers in the network.

To determine to which one of the servers the file system is assigned, a file that contains file system/computer assignment information is consulted.

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In the method of performing failure recovery of a failed server, one of the servers monitors the rest of the servers to detect failures. When a failure of a server is detected, the file systems that were assigned to that failed server are re-assigned to an operational server. Thus, requests can always be processed.

Since to export a file system is to make the file system available for NFS clients to mount (an NFS client can only mount a file system after the file system has been exported to it) and since the NFS clients disclosed by Vahalia et al. are requesting access to a file system (an NFS client cannot request access to a file system unless and until the file system is mounted on the client), ***Vahalia et al. do not teach, show or suggest a method of exporting file systems*** as stated by the examiner.

Put differently, in order for an NFS client to request access to a file system, the file system must have already been mounted on the NFS client, which means that the file system must have already been exported to the NFS client. The disclosure of Vahalia et al. does not discuss file system exportation but delves straight into file systems access request grants.

The Examiner cited different passages in col. 13 of the disclosure of Vahalia et al. to support the rejection. However, the cited passages merely explain the disclosed method.

Firstly, it is well known that NFS files are indexed in a file directory that may be said to be organized as a tree, and each file system may be identified by a node in the tree. It is further well known that files are mounted to the "tree" at specific points called "mount points".

Vahalia et al. disclose in col. 13, lines 19 - 22 that each computer has (1) a directory of the file systems; (2) a database of the mount points for the file systems and (3) the computer to which each read-write file system is assigned.

Vahalia et al. further disclose in col. 13, line 40 to col. 14, line 15 that item 3 above allows a computer which receives a request to access a file system from an NFS client to check to see whether the file system is assigned to it or to another computer (see specifically col. 13, lines 22 - 26). If the file system is
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assigned to another computer, then the computer that receives the request may forward the request to the other computer. If the file system is assigned to the computer that receives the request, then it needs to know whether the file system is remote or not. As it is defined in the reference, a remote file system is a file system that has to be mounted on another file system (see specifically col. 13, lines 52 – 55 and col. 17, lines 15 - 32). To determine whether the file system is remote, the name (i.e., pathname) of the file that is to be accessed in the file system is parsed. If a mount point is reached as indicated by the list of mount points in the database in (2), then it is remote. If the file system to be accessed is remote, then a request to mount it at the proper mount point will be issued to the computer that has the file system to which it (the file system that is to be accessed) is to be mounted. If the file system is not remote, then before granting the request the computer that receives the request will make sure that the file system to be accessed was exported to the NFS client that is issued the file access request (after all, if the file system was not exported to the client requesting access then the request must be in error since that client should not even know of the file system).

Thus, in column 13, which was extensively cited by the Examiner as support for the rejection, Vahalia et al. merely explain a specific implementation of their method. However, nowhere in that implementation is there disclosed the claimed invention.

In other words, Vahalia et al. do not teach, show or suggest ***consulting a file associated with a mount point of a mounted file system to retrieve information needed to export file systems*** that are to be mounted at that mount point as claimed.

Therefore, Applicants submit that the claims in the Application should be allowable. Hence, Applicants respectfully request allowance and passage to issue of the claims in the application.

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Respectfully Submitted

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(viii)

Claims Appendix

1. (Previously presented) A method of exporting file systems comprising the steps of:

consulting a file associated with a mount point of a mounted file system to retrieve needed information to export the file systems, the mount point being the point at which the file systems are mounted on a computer system; and

exporting the file systems.
2. (Original) The method of Claim 1 wherein the needed information is names of devices within which the file systems are located.
3. (Original) The method of Claim 2 wherein the file systems are exported without first being mounted.
4. (Original) The method of Claim 3 wherein the file is an extended attribute file.
5. (Original) The method of Claim 4 wherein each mount point has an extended attribute file.
6. (Previously presented) A computer program product on a computer readable medium for exporting file systems comprising:

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code means for consulting a file associated with a mount point of a mounted file system to retrieve needed information to export the file systems, the mount point being the point at which the file systems are mounted on a computer system; and

code means for exporting the file systems.

7. (Original) The computer program product of Claim 6 wherein the needed information is names of devices within which the file systems are located.
8. (Original) The computer program product of Claim 7 wherein the file systems are exported without first being mounted.
9. (Original) The computer program product of Claim 8 wherein the file is an extended attribute file.
10. (Original) The computer program product of Claim 9 wherein each mount point has an extended attribute file.
11. (Previously presented) An apparatus for exporting file systems comprising:

means for consulting a file associated with a mount point of a mounted file system to retrieve needed information to export the file systems, the mount point being the point at which the file systems are mounted on a computer system; and

means for exporting the file systems.

12. (Original) The apparatus of Claim 11 wherein the needed information is names of devices within which the file systems are located.

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13. (Original) The apparatus of Claim 12 wherein the file systems are exported without first being mounted.
14. (Original) The apparatus of Claim 13 wherein the file is an extended attribute file.
15. (Original) The apparatus of Claim 14 wherein each mount point has an extended attribute file.
16. (Previously presented) A computer system for exporting file systems comprising:

at least one storage device for storing code data; and

at least one processor for processing the code data to consult a file associated with a mount point of a mounted file system to retrieve needed information to export the file systems, the mount point being the point at which the file systems are mounted on a the computer system, and to export the file systems.
17. (Original) The computer system of Claim 16 wherein the needed information is names of devices within which the file systems are located.
18. (Original) The computer system of Claim 17 wherein the file systems are exported without first being mounted.
19. (Original) The computer system of Claim 16 wherein the file is an extended attribute file.

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20. (Original) The computer system of Claim 19 wherein each mount point has an extended attribute file.

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(ix)

Evidence Appendix

No evidence was submitted pursuant to 37 C.F.R. §§ 1.130, 1.131 and 1.132 nor was there any evidence entered by the Examiner relied upon by Appellants in this appeal.

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(x)

Related Proceedings Appendix

There are no decisions rendered by a court or the Board that would have a bearing on the Board's decision in the pending appeal.

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